

REMARKS

The claims pending in the subject application stand subject to restriction under both 35 U.S.C. §§ 121 and 372. Applicant hereby provisionally elects Group I, claims 17-31 and 49 drawn to a composition, with traverse.

First, claims 17, 32, 45-47 and 49 have been amended to recite an “intact” protein fraction, support for which may be found at least at paragraph 4, page 4 of the as-filed application. The special technical feature of “an intact protein fraction in an amount of 8.2-11 g/100 ml” is not taught by the reference cited, WO 2004/026294, and is therefore novel over the same reference. *See, e.g.*, Example 6, wherein the total amount of intact protein (which includes Na- and Ca-caseinate, but not the free amino acids Leu, Arg, Met) is only 7.63 g/100 ml. Hence, Applicant respectfully submit that the claims of Group I, II, and IV (*i.e.*, claims 17-43, 45-49, and 49) now share a novel, special technical feature and respectfully requests that they be examined together. MPEP § 1893.03(d).

Second, the Office has not shown that there would be a serious burden to examine all of the claims together. As set forth in MPEP § 803, there must be a serious burden on the Examiner if restriction is required. Because a burden must be shown, and because the Office has not demonstrated such a burden, Applicants respectfully request that the Restriction Requirement be withdrawn.

Conclusion

Applicant believes that the present application is in condition for allowance. Favorable consideration of the application as amended is respectfully requested. The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to

Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extension fees to Deposit Account No. 19-0741.

Respectfully submitted,

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By 

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